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C.R.P. (PD).No.4537 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4537 of 2024
and C.M.P.No.25269 of 2024

C.Paulin

.. Petitioner

Vs.

Jeevitha

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for the records pertaining to I.A.No.1 of 2023 in O.S.No.263 of 2021 order dated 09.08.2024 passed by the Subordinate Judge, Alandur and to set aside the order dated 09.08.2024 by allowing this revision.

For Petitioner : Mr.P.K.Ganesh

ORDER

This Civil Revision Petition arises against the order dated 09.08.2024 passed by the learned Subordinate Judge, Alandur, in I.A.No.1 of 2023 in O.S.No.263 of 2021.

2.O.S.No.263 of 2021 was originally presented before the Sub Court at



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Tambaram, as O.S.No.371 of 2009 seeking for partition and consequentially, for the relief of declaration that two sale deeds that had been executed by her father in favour of the 1st defendant is not binding on her. The parties have completed the pleadings and the matter now stands posted for the evidence of D.W.1. on 19.12.2022.

3.On 23.01.2023, the defendants took out an application under Order VII Rule 11 of the Code of Civil Procedure, pleading that the suit is undervalued and it is barred by time. The learned Trial Judge after receipt of a counter from the plaintiff, dismissed the application on 09.08.2024. Hence, this revision.

4.I heard Mr.P.K.Ganesh for the civil revision petitioner.

5.Mr.P.K.Ganesh reiterates the submissions he had made before the learned Subordinate Judge, Alandur. He wants to rely upon certain documents during the course of evidence to substantiate his plea that the suit is barred by limitation.



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6.I have carefully considered the submissions of Mr.P.K.Ganesh.

7.When dealing with an application for rejection of plaint, a Court is concerned only with the plaint and plaint documents alone. It cannot look into the documents that have been filed by the defendants. A reading of the plaint shows, in paragraph No.7, the plaintiff pleaded that she came to know about the sale deeds executed by her father in favour of the 1st defendant only in October, 2008. Being a plea in demurer, I have to take this averment to be true. If the plaintiff came to know about the document only in October, 2008, then the presentation of the suit in December, 2008, is very much in time.

8.With respect to the plea of undervaluation, it is not a ground for rejection of a plaint. It becomes one when a Court has passed an order stating that the plaint is undervalued and that order has become final and yet, the plaintiff has not made good the difference in Court fee, despite the time granted. Straightaway an application under Order VII Rule 11(b) is not entertainable. Apart from all this, as stated in the commencement of this order, the evidence of the plaintiff is over and it is listed for the evidence of defendants. That being the situation, an application for rejection of plaint, that



too after 15 years from the presentation of the plaint is certainly not entertainable.

9.In the light of the above discussion, this Civil Revision Petition is dismissed. The learned Subordinate Judge, Alandur, is requested to expedite the proceedings at all stages and ensure that the suit is disposed of on or before 31.03.2025. It is open to Mr.P.K.Ganesh's client to raise all such defences that he is entitled to at the time of trial. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.11.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The Subordinate Judge, Alandur.

V.LAKSHMINARAYANAN, J.



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